IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4071 OF 1997

Shri Madhukar K. Bhargude,)
2475, Dhankawadi,)
Pune 411 043. ...).. Petitioner.

Versus

1) Shri Girish Trivedi)
General Manager, Marketing,)
Thermax Limited,)
Chinchwad, Pune-411 019.)
2) M/s. Thermax Limited,)
Chinchwad, Pune-411 019.)
3) First Labour Court,)
Pune at Pune.)
4) Industrial Court, Pune)
at Pune.)... Respondents.

Mr.S.R.Nargolkar for the Petitioner.

Mr. C.U.Singh, Senior Counsel with Mr. K. S. Bapat for Respondent No.2.

CORAM : SMT.NISHITA MHATRE, J.

DATED : 19TH JANUARY, 2007.

JUDGEMENT:

The petitioner has challenged the order of the Industrial Court by which the Industrial Court has remanded the Complaint (ULP) No.162 of 1989 to the Labour Court for a fresh trial. The Labour Court had allowed the complaint filed by the petitioner complaining of unfair labour practice on the part of the respondent company under item 1(a) and (b) of Schedule IV of the Maharashtra Recognition of Trade Unions and Unfair Labour Practices Act, 1971 (for short "MRTU & PULP Act"). The Labour Court had directed reinstatement of the petitioner with continuity of service and 50% of backwages for the intervening period. Since both the petitioner and respondent were aggrieved by the order of the Labour Court they preferred revision applications. The revision application filed by the petitioner being Revision Application (ULP) No. 88 of 1996 was dismissed while the Revision Application (ULP) No. 50 of 1996 filed by the respondent company was allowed.

2. The petitioner was appointed as a "Fitter" with the first respondent company from 1982. According to the petitioner he was an active member of the trade union functioning in the respondent company. On 15th October, 1988 a charge sheet was issued to the

petitioner alleging certain acts of misconduct under Clauses 24(a), (k) and (l) of the Model Standing Orders. The allegation was that the petitioner had behaved in an indecent manner and had used abusive language against his superior. An inquiry was conducted which the petitioner claimed was a farce since it did not confirm with the principles of natural justice. The services of the petitioner were terminated on 20th September, 1989 when the respondent company accepted the report of the Inquiry Officer holding that the petitioner was guilty of misconduct. The petitioner, therefore, filed a complaint before the Labour Court. By an order of 31st May, 1996 the Labour court held that the inquiry conducted was legal and proper. However, the termination of service has been held to be illegal on the ground that there was no material before the Inquiry Officer to conclude that the misconduct was proved.

3. The Industrial Court in revision while setting aside the order of the Labour Court has observed that the Labour Court has not given reasons for disbelieving the evidence on record before the Inquiry Officer. The Industrial Court while remanding the matter to the Labour Court had directed a fresh trial.

4. In my view, there is no need to interfere with the order of the Industrial Court since the Industrial Court has merely remanded the matter to the Labour Court for a fresh trial. In fact, by now, if, the petitioner had not challenged the order, the fresh trial would have concluded. Be that as it may, the Labour Court shall decide the complaint afresh. Any observations made by the Labour Court or the Industrial Court, with regard to the merits of the complaint, will not be binding on the Labour Court while deciding the complaint afresh. The Complaint shall be disposed of within six months from today.

5. All contentions of both the parties are left open. They are at liberty to lead evidence afresh, if need be.

6. Writ petition is disposed of, accordingly. Rule discharged.

7. No costs.

Sd/-

(SMT.NISHITA MHATRE, J.)